

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

5

DECISION

TOPIC

Adopted & Filed Emergency – Chapter 107 by adopting new rule 567-107.16(455C) – Independent redemption center grant program

Attached for the Commission’s approval is an Adopted & Filed Emergency After Notice to amend 567-Chapter 107 by adopting new subrule [567] 107.16(455C) “Independent redemption center grant program.”

This amendment is being proposed to establish criteria for awarding grants to independent redemption centers for making improvements to such centers. The grant program is the result of recently passed legislation, House File 2700, dedicating one million dollars from the general fund of the state for improvements to independent redemption centers in existence prior to July 1, 2008.

The Commission previously approved the Notice of Intended Action for this new subrule on July 8, 2008. That Notice of Intended Action as non-substantively edited by the Administrative Rules Coordinator was published in the July 30, 2008 Iowa Administrative Bulletin. This initiated a 20-day public input period, which culminated in a public hearing held at the Wallace State Office Building on August 19, 2008. The comments received are summarized as attached to this Adopted & Filed Emergency After Notice. No changes have been made to the new subrule as it had been published.

The Commission is requested to approve the attached Adopted & Filed Emergency After Notice. By making this approval today, the Commission is enabling the expedited effective date of this rule. This is justified under Iowa Code sections 17A.5(2)(b)(2) because the rule confers a benefit on the public.

Brian Tormey, Chief
Land Quality Bureau
Environmental Services Division

August 20, 2008

ENVIRONMENTAL PROTECTION COMMISSION

Adopted & Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 455C.19, the Environmental Protection Commission hereby gives Adopted & Filed Emergency After Notice approval to amend Chapter 107, “Beverage Container Deposits,” Iowa Administrative Code by adopting new subrule [567] 107.16(455C) “Independent redemption center grant program.”

This amendment is being proposed to establish criteria for awarding grants to independent redemption centers for making improvements to such centers. The grant program is the result of recently passed legislation, 2008 Iowa Acts, House File 2700, sections 78 and 88, that dedicates \$1 million from the general fund of the state to an independent redemption center grant fund for improvements to independent redemption centers in existence prior to July 1, 2008. Up to 3.5 percent of the fund can be used to pay administrative costs relating to the management of the grant program.

The Notice of Intended Action for the proposed rule was published in the July 30, 2008 Iowa Administrative Bulletin, ARC 7038B. The Administrative Rules Coordinator made approximately 16 minor typographic, grammatical and stylistic edits to the Notice of Intended Action that the Commission approved on July 8, 2008. All of the edits are non-substantive, and have all been incorporated into the Adopted & Filed Emergency After Notice document.

A public hearing was held on August 19, 2008, at 2:00 p.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, at which time eight persons attended and six of them spoke about their views on the proposed rule. At the hearing, persons were asked to give their names and addresses for the record and to

confine their remarks to the subject of the amendment. Comments received from the public are summarized in the attached Responsiveness Summary.

The amendment is substantively identical to that published under the Notice of Intended Action in the July 30, 2008 Iowa Administrative Bulletin.

Pursuant to Iowa Code section 17A.5(2)"b" , the reason for setting an effective date which is sooner than that allowed by the normal rule-making process is that the amendment confers a benefit on the public (Iowa Code section 17A.5(2)"b"(2)). That is, the public will benefit by having independent redemption centers obtain, as quickly as possible, grant funds for improving their sustainability, convenience, and accessibility. Independent redemption centers have been operating under general financial hardship for many years, and the sooner they can institute improvements through this grant program, the sooner the public will benefit from those improvements.

This amendment is intended to implement 2008 Iowa Acts, House File 2700 sections 78 and 88. This amendment will become effective upon filing with the Administrative Rules Coordinator on September 10, 2008.

The following amendment is proposed.

Adopting **new** rule 567-107.16 (82GA, HF 2700) as follows:

567—107.16(82GA, HF2700) Independent redemption center grant program. An independent redemption center grant program is established in the department, with funds provided from the independent redemption center grant fund established in the state treasury and under the authority of the natural resources department. The purpose of the program is to award grants for improvements to independent redemption centers. No grant shall exceed \$15,000 for

any redemption center. The department shall issue awards in accordance with the availability of moneys in the independent redemption center grant fund.

107.16(1) Goals. The goals of the program are to enable independent redemption centers to become more:

a. Sustainable. This goal includes measures that help independent redemption centers continue to operate and succeed. Such measures include but are not limited to physical improvements to sites owned by independent redemption centers or equipment purchases that can help reduce operational costs.

b. Convenient. This goal includes measures that help independent redemption centers better serve customers.

c. Accessible. This goal includes measures that enable customers to more easily use independent redemption centers' services.

107.16(2) Application. The department shall develop an application for redemption centers to complete and submit to the department in order to apply for a grant under this program. The application shall include, but not be limited to:

a. An explanation of how the grant will enable the redemption center to become more sustainable, convenient or accessible.

b. A statement and substantiation of the specific amount of grant funds that will be expended to pay for the improvement or improvements.

c. If the applicant's beverage container redemption function is one part of a business enterprise that includes one or more other commercial activities that are not beverage container redemption, a clear explanation must be provided as to how the proposed grant-funded improvement or improvements will be implemented exclusively for the beverage container redemption function.

107.16(3) Eligibility. To be eligible for the independent redemption center grant program, a redemption center must meet both of the following criteria:

a. Have no affiliation with or in any way be a subsidiary of a dealer, a distributor, or a manufacturer.

b. Have been in business prior to July 1, 2008. A redemption center registered with the department as an approved redemption center, unapproved redemption center, redemption center for a dealer or registered redemption center prior to July 1, 2008, meets this criterion. A redemption center that was not registered with the department prior to July 1, 2008, must provide documentation that the redemption center was in business prior to July 1, 2008.

107.16(4) Evaluation of applications. The department will evaluate all eligible grant applications submitted in the manner prescribed in the application. The applications will be evaluated based on their compatibility with the goals of the program.

a. Physical improvements to a site owned by an independent redemption center or equipment purchases that will improve the sustainability, convenience, or accessibility of a redemption center will receive highest consideration. Although a cash match is not required, applications that include statements of cash match will be evaluated more favorably.

b. Labor costs associated with improving the sustainability, convenience or accessibility of a redemption center will receive secondary consideration.

c. Direct cash payments for general compensation will not be considered.

107.16(5) Grant denial. An application may be denied for reasons that include, but are not limited to, the following:

a. The applicant does not meet the eligibility requirements set forth in subrule 107.16(3).

b. The applicant does not provide sufficient information requested for the application proposal.

- c. The project is not consistent with the goals of the program.
- d. Funds are insufficient to award financial assistance to all qualified applicants.
- e. The applicant has not met contractual obligations of previous grant awards.
- f. The department received the application after the deadline stated in the application.

107.16(6) Grant contracts, reporting and accountability. Each grant awarded under this program shall be conveyed by means of a contract with each grantee. The department shall develop and provide the form of the grant contracts, which shall include, at a minimum:

- a. A description and explanation of the improvement or improvements being funded, including a statement of cash match, if any, that will be expended by the grantee.
- b. The dollar amount of the grant award and the manner in which funds will be transferred.
- c. The requirement for the grantee to submit to the department a report following the implementation of the funded improvement or improvements. The report shall state how the grant funds, and cash match, if any, were expended in the execution of the contract and shall include copies of any supporting documents.
- d. The department's remedies in the event of a grantee's breach of contract.

Date

Richard A. Leopold, Director

Responsiveness Summary
Iowa Administrative Code 567–Chapter 107
“Independent Redemption Center Grants Program”

This is a summary of the comments received by the Department of Natural Resources during the Public Comment period and the oral comments provided at the Public Hearing held on August 19, 2008 at 2:00 P.M. at the Wallace Building in Des Moines.

Comments not pertaining to the Administrative Rules have not been included. People representing their respective organizations who took part in the Public Comment period:

ATTENDED THE 8/19/08 PUBLIC HEARING - * PROVIDED ORAL COMMENTS	
Ralph* & Vicki* Kincer	RVK Redemption; Sheldon, IA
Joe* & Marcia Strunk	Main Avenue Redemption Center; Clinton, IA
Jeff Messenger*	JLM Services; St. Charles, IA
Sheila Douglas	Iowa Wholesale Beer Distributors Association
Brian W.* & Angie Boyd	Southeast Iowa Redemption Center; Keokuk, IA
PROVIDED WRITTEN COMMENTS BY 8/19/08	
Troy Willard	Can Shed, LLC; Cedar Rapids, IA

Comments that go to clarifying provisions in the proposed Rules:

1. Requests for funds need to be eligible for grants to purchase container counters that can handle different sizes of containers. (Mr. Strunk)

Response: Proposed Rule 567-107.16(4)(a) covers this.

2. Grant applications should not be required to state a cash match, but those that do should get a more favorable consideration. (Mr. Boyd)

Response: Proposed Rule 567-107.16(4)(a) also covers this.

3. The purpose of what the grants are to do needs to be emphasized. (Mr. Boyd)

Response: The goals of sustainability, convenience, and accessibility are described in Proposed Rule 567-107.16(1), and the kinds of improvements to be considered are in Proposed Rule 567-107.16(4)(a)&(b).

4. Grants promoting convenience and accessibility could be counter-productive to redemption centers' interests by increasing the numbers of containers handled without providing for the extra costs involved. (Mr. Willard)

Response: Requests for funds can be just for sustainability improvements, and do not have to address all three goals.

Comments that go to clarifying provisions in the enabling legislation:

1. The grants should be based on the volume of a redemption center's business, requiring scaled matching funds criteria so that larger operations that are willing to invest larger amounts of money can have it matched to offset those costs. (Mr. Willard)

Response: Nothing in 2008 Iowa Acts, House File 2700, sections 78 and 88 (HF 2700) mentions requiring matching funds. Proposed Rule 567-107.16(4)(a) gives favorable consideration for applications that provide cash match without requiring it.

2. Redemption centers that are not on record with the Department should not be eligible for grants. (Mr. Kincer)

Response: HF 2700 only stipulates that grants be for improvements to independent redemption centers in existence prior to July 1, 2008. Proposed Rule 567-107.16(3)(b) does require an applicant that is not on record with the Department to provide documentation of its existence prior to July 1, 2008.

3. If all of the funds available for grants are not awarded in the current fiscal year, whatever is left over should still be used somehow for redemption centers. (Mr. Messenger)

Response: HF 2700, section 78 enacts a new Iowa Code section 455C.17(2)(b) that provides for the grant program to continue until all of the allocated funds are used for the program's purposes.

Comments that go to clarifying administration of the program:

1. A grant for an independent redemption center should mean no more than one per each facility. (Mr. Boyd)

Response: That is the way the grant application form is being designed

2. Provisions need to be in place to make sure every independent redemption center in existence prior to July 1, 2008 is given proper opportunity to apply for a grant. (Mr. Messenger)

Response: Two informational memos have been sent to all redemption centers for which the Department has contact information, plus about a dozen others that have requested notifications. A web-page for the redemption centers grants program - http://www.iowadnr.com/waste/policy/rc_grants.html - has been created for posting materials, particularly the application form when it is authorized to be distributed.

3. Grants should cover costs for eligible improvements that have been incurred since the program was established. (Mrs. Kincer)

Response: As a fundamental administrative practice, funds are not paid out for expenses that were incurred before the funds were made available. Grant applications will be evaluated on a case-by-case basis to identify eligible expenses that grant funds would properly pay for in accordance with that fundamental administrative practice.